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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 THE CITY AND COUNTY OF SAN
FRANCISCO, CALIFORNIA and THE PEOPLE
16 OF THE STATE OF CALIFORNIA, Acting by
and through San Francisco City Attorney DAVID
17 CHIU,

18 Plaintiffs,

19 v.

20 PURDUE PHARMA L.P., et al.

21 Defendants.

Case No. 3:18-cv-07591-CRB-JSC

**THE PEOPLE'S RESPONSES TO
WALGREENS' OBJECTIONS TO THE
DECLARATION OF SWATI PATEL,
PHARM.D.**

Hon. Charles R. Breyer

1 Walgreens offers two objections to the Declaration of Swati Patel, Pharm.D. Neither are
2 persuasive.

3 As an initial matter, Walgreens seeks to exclude Dr. Patel's testimony because she was
4 not included on the People's initial witness list. Walgreens' argument omits several key facts.
5 First and foremost, Dr. Patel is on *Walgreens'* witness list, and her inclusion in this case comes as
6 no surprise. Walgreens even singled Dr. Patel out in its opening statement with heavily edited and
7 misleading excerpts from her deposition. It was clear that both sides would have the opportunity
8 to question her in this trial, and Walgreens is not prejudiced by the fact that these questions will
9 now be asked in the People's case-in-chief as opposed to Walgreens' defense. Also omitted from
10 Walgreens' objections is the fact that, in its own witness list, Walgreens reserved the right to "call
11 to testify at trial live or by deposition any witness identified on any other party's witness
12 list."Doc. 1243 at 2. Walgreens offers no justification for its argument that the People should be
13 precluded from exercising the precise right that Walgreens (and the People) expressly reserved.
14 *See* Doc. 1242 at 27 ("Plaintiff also reserves the right to supplement and/or amend its [witness]
15 list with any witnesses identified on any party's witness lists . . ."). There is none, and the People
16 properly amended their witness list on May 4 to include Dr. Patel.

17 Walgreens' two foundation objections are also misplaced, and she has made minor
18 modifications to her declaration to explain why. First, Walgreens claims that Dr. Patel has no
19 foundation to compare Zuckerberg Outpatient pharmacy to Walgreens. But as Dr. Patel explains,
20 her knowledge of relevant chain pharmacy practice is based on her "many years interacting with
21 retail chain pharmacies" and her own previous experience working for one. Second, as Dr. Patel
22 now spells out, her characterizations of Walgreens' rhetoric are properly based on her own
23 observations from her deposition. Patel Decl. ¶ 2 ("In my deposition, Walgreens appeared to
24 compare ZSFG's pharmacies to Walgreens.").

25 Walgreens' objections should be overruled.
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27
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Respectfully submitted,

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